

6424/99

LIMITE

JAI 16

EVAL 18

COUNCIL DECISION

of

on the rules applicable to national experts on detachment
to the General Secretariat of the Council
(Directorate-General for Justice and Home Affairs)
in the context of the collective evaluation of the enactment,
application and effective implementation by the applicant countries
of the acquis of the European Union in the field of Justice and Home Affairs

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular
Article 151(2) thereof,

Whereas on 29 June 1998 the Council adopted a Joint Action on the basis of Article K.3 of the Treaty on European Union establishing a mechanism for collective evaluation of the enactment, application and effective implementation by the applicant countries of the acquis of the European Union in the field of Justice and Home Affairs;

Whereas the specific nature and volume of the work to be done justifies the detachment of a team of national experts and practitioners in Justice and Home Affairs to the General Secretariat of the Council for a limited period,

HAS DECIDED AS FOLLOWS:

CHAPTER I: GENERAL PROVISIONS

Article 1

Definition

1. These rules are applicable to national experts on detachment to the General Secretariat of the Council (Directorate-General for Justice and Home Affairs), hereafter referred to as the "General Secretariat", in the context of collective evaluation of the enactment, application and effective implementation by the applicant countries of the acquis of the European Union in the field of Justice and Home Affairs.
2. The persons covered by these Rules shall remain in paid employment in an international, national, regional or local administration throughout the period of detachment.
3. Except where the Secretary-General grants a derogation, national experts on detachment shall be nationals of a Member State of the European Union.

Article 2

Period of detachment

1. The period of detachment of national experts on detachment shall depend on the tasks assigned to them. Under no circumstances may they be detached for less than three months or more than three years. They shall serve on a full-time basis throughout the period of detachment.
2. The probable period of detachment shall be fixed at the outset in an exchange of letters between the Secretary-General and the Office of the Permanent Representative of the Member State concerned, or the employer in the case of an international organisation.
3. No national expert may be detached to the General Secretariat more than once.

Article 3

Duties

1. National experts on detachment shall assist General Secretariat officials and carry out the duties assigned to them in a predetermined work programme or job description.
2. Unless special instructions to the contrary are given, under the authority of the Secretary-General, by the Director-General of the Directorate-General for Justice and Home Affairs, national experts on detachment shall not enter into any commitment on the General Secretariat's behalf with third parties.
3. National experts on detachment may work in any field where their services are deemed necessary provided there is no conflict with the interests of the European Union.

Article 4

Level, professional experience and knowledge of languages

1. To qualify for detachment to the General Secretariat a national expert must have at least three years' experience of administrative, advisory or supervisory duties in a grade equivalent to Categories A or B at the General Secretariat.
2. A national expert on detachment must have a thorough knowledge of one European Union language and a satisfactory knowledge of a second language where this is necessary for the performance of his duties.

Article 5

Social security

1. Before the period of detachment begins, the civil service from which the official is to be detached shall certify to the General Secretariat that he will remain subject throughout the period of detachment to the social security legislation applicable to that civil service which will assume responsibility for expenses incurred abroad.
2. From the day he takes up duty a national expert on detachment shall be personally insured against the risk of accidents on the same terms as General Secretariat employees not covered by the Staff Regulations.
3. A national expert on detachment who cannot be covered by a public sickness insurance scheme can apply to have this risk insured by the General Secretariat subject to his contributing half the relevant insurance premium. In such a case, his contribution shall be deducted monthly from the allowance referred to in Article 12.

Article 6

Breaks in or termination of periods of detachment

1. The General Secretariat may authorise breaks in periods of detachment and specify the terms applicable. The allowances referred to in Articles 12 and 13 shall not be payable during such breaks. The allowances referred to in Articles 14 and 15 shall be paid only if the break is at the General Secretariat's request.
2. Periods of detachment may be terminated if the interests of the General Secretariat or the expert's employer so require or for any other sufficient cause.

CHAPTER II: RIGHTS AND OBLIGATIONS OF A NATIONAL EXPERT ON DETACHMENT

Article 7

1. A national expert on detachment shall carry out his duties and conduct himself solely with the interests of the Council in mind.
2. A national expert on detachment shall abstain from any action, and in particular any public expression of opinion, which may reflect on his position.
3. A national expert on detachment who, in the performance of his duties, is called upon to pronounce on a matter in the handling or outcome of which he has a personal interest such as to impair his independence shall inform the head of the department to which he is assigned.

4. A national expert on detachment shall exercise the greatest discretion with regard to all facts and information coming to his knowledge in the course of or in connection with the performance of his duties; he shall not in any form whatsoever disclose to any unauthorised person any document or information not already made public. He shall continue to be bound by this obligation after his period of detachment has terminated.

5. A national expert on detachment shall not, whether alone or together with others, publish or cause to be published any matter dealing with the work of the European Union without obtaining permission in accordance with the conditions and rules in force at the General Secretariat. Permission shall be refused only where the proposed publication is liable to prejudice the interests of the European Union.

6. All rights in any work done by a national expert on detachment in the performance of his duties shall be the property of the General Secretariat.

7. A national expert on detachment shall reside at his place of employment or at no greater distance therefrom as is compatible with the proper performance of his duties.

8. A national expert on detachment shall assist and tender advice to the superiors to whom he is assigned; he shall be responsible to them for performance of the tasks entrusted to him.

CHAPTER III: WORKING CONDITIONS OF THE NATIONAL EXPERT ON DETACHMENT

Article 8

Hours of work

1. A national expert on detachment shall be bound by the rules on hours of work in force at the General Secretariat.
2. However, a national expert on detachment shall not be authorised to work half-time.

Article 9

Leave and holidays

A national expert on detachment shall be subject to the rules on annual leave, special leave and holidays in force at the General Secretariat.

Article 10

Management and control

Management and control of leave and working time shall be the responsibility of the Directorate-General for Justice and Home Affairs.

CHAPTER IV: EMOLUMENTS

A. Remuneration

Article 11

Declaration of salary paid by the expert's employer

1. The Office of the Permanent Representative of the Member State concerned, or the employer in the case of an international organisation, shall notify the General Secretariat of the gross annual salary paid to each national expert on detachment.
2. This information shall appear in the exchange of letters between the General Secretariat and the Office of the Permanent Representative of the Member State concerned, or the employer in the case of an international organisation.

B. Allowances

Article 12

Subsistence allowances

1. A national expert on detachment shall be entitled, throughout the period of detachment, to the daily allowance of EUR 104,03. This allowance shall be paid monthly. However, the exchange of letters referred to in Article 18(2) may stipulate that this allowance shall not be paid.
2. The allowance shall be payable for periods of mission, annual leave, special leave and holidays granted by the General Secretariat.

3. The allowance shall be reduced by seventy-five per cent if the place of recruitment is less than fifty kilometres from the place of employment.

4. An advance payment shall be made to a national expert on detachment, when he takes up his duties, corresponding to the allowances to which he is entitled under paragraph 1 for the period from the day on which he takes up his duties to the last day of the second month following that in which he takes up his duties.

Where such payment is made, there shall be no further entitlement to allowances for the corresponding period.

Where a national expert on detachment definitively ends his employment with the General Secretariat before expiry of the period taken into account for the calculation of the advance payment, that portion of the advance payment made to the expert which corresponds to the period not spent in the General Secretariat's employment shall be recoverable.

5. The subsistence payment to the national expert on detachment may be revised taking into account consumer price trends in Brussels.

Article 13

Additional flat-rate allowance

Except where the place of recruitment of the national expert on detachment is less than fifty kilometres from his place of employment, he shall, where appropriate, receive an additional flat-rate allowance equal to the difference between the gross annual salary (less family allowances) paid by his employer plus the subsistence allowance paid by the General Secretariat and the basic salary payable to an official in step 1 of Grade A8 or step 1 of Grade B5, depending on the category to which he is deemed to correspond.

C. Reimbursement of expenses

Article 14

Travel expenses

1. If a national expert on detachment has not removed his personal effects from his place of recruitment to his place of employment, he shall be entitled each month to the cost of a return journey from his place of employment to his place of recruitment. This payment shall be made at the end of each month or on the last day worked if the whole month is not worked. This flat-rate payment shall be based on the cost of the first-class rail fare where the single journey does not exceed five hundred kilometres. Where the journey exceeds five hundred kilometres or involves a sea crossing, payment shall be based on the reduced-price economy-class air fare (the lowest fare offered by the national companies serving the place of recruitment and the place of employment).
2. The rate applied shall be that in force on 1 January of the current year at the General Secretariat's Travel Office. This rate shall be reviewed on 1 July in respect of journeys where the price has increased by more than five per cent since 1 January. Where a whole month is not worked, the amount shall be calculated in proportion to the number of days worked.
3. If a national expert on detachment does remove his personal effects from his place of recruitment to his place of employment, he shall be entitled each year for himself, his spouse and his dependent children to a flat-rate payment equal to the cost of a return journey from his place of employment to his place of recruitment in accordance with the rules and conditions in force at the General Secretariat.

4. In accordance with the rules and conditions in force at the General Secretariat, a national expert on detachment shall be entitled to reimbursement of travel expenses:

(a) for himself:

- from his place of recruitment to his place of employment at the beginning of the period of detachment;
- from his place of employment to his place of recruitment at the end of the period of detachment;

(b) for his spouse and dependent children:

- from the place of recruitment to the place of employment when removal takes place;
- from the place of employment to the place of recruitment at the end of the period of detachment.

5. For the purpose of these Rules, the place of recruitment shall be the place where the national expert on detachment performed his duties prior to his detachment. The place of employment shall be the place in which the department to which he is assigned is located. The exchange of letters between the General Secretariat and the Office of the Permanent Representative of the Member State concerned, or the employer in the case of an international organisation, shall specify these places.

Article 15

Removal expenses

1. A national expert on detachment who is obliged to move his residence to his place of employment may remove his personal effects no later than six months after taking up duty provided that the probable period of detachment is at least two years and that the place of recruitment is at least fifty kilometres from the place of employment.

2. A national expert on detachment shall be entitled to reimbursement of the costs of removing his personal effects in accordance with the rules and conditions in force at the General Secretariat.

3. Removal must take place within three months of the end of the period of detachment.

Article 16

Missions and mission expenses

1. A national expert on detachment may be sent on mission only in accordance with Article 3 of these Rules.

2. Mission expenses shall be reimbursed in accordance with the rules and conditions relating to the reimbursement of mission expenses for officials in force at the General Secretariat.

Article 17

Adjustment of emoluments

1. The emoluments to which a national expert on detachment is entitled shall not be revised during the period of detachment.

2. However, the additional flat-rate allowance referred to in Article 13 shall be adjusted once a year, without retroactive effect, to take account of changes in the basic salaries of Community officials.

CHAPTER V: ADMINISTRATIVE AND BUDGETARY PROVISIONS

Article 18

Budgetary allocations and contracts

1. Expenditure arising from the detachment of national experts shall be charged to budget heading 1113 in Section II of the budget (Special advisors and other persons mandated by the Council).
2. Detachment shall be implemented by an exchange of letters between the Secretary-General and the Office of the Permanent Representative of the Member State concerned, or the employer in the case of an international organisation. The exchange of letters shall indicate the names of the individuals authorised to lay down the practical detailed arrangements for detachment under these rules. Any letter extending, breaking or terminating the period of detachment shall also be sent by the Secretary-General. A national expert on detachment shall present himself to the appropriate department of the Directorate-General for Administration and Protocol on the first day of his detachment to complete the relevant administrative formalities. He shall take up duty on the first of the month.

Article 19

Settlement of expenditure

Payments shall be made monthly in arrears by the appropriate department of the Directorate-General for Administration and Protocol, in euro into a bank account opened at a banking institution in Belgium.

Article 20

Expenditure on infrastructure

Expenditure on the provision of working facilities (offices, furniture, machines, etc.) for national experts on detachment paid from administrative appropriations shall be charged to administrative appropriations.

This Decision shall take effect on the date of its adoption.

Done at Brussels,

For the Council
The President
